

681—3.104(8A) Terminations.

3.104(1) Resignations. To resign in good standing employees must notify the employing department of their intention to resign in writing at least ten days prior to the effective date of resignation, except in cases where the employing department agrees to a shorter period of notice. An employee who fails to give proper notice may, at the request of the employing department, be barred from future certification to that department or from reinstatement as provided for in these rules. Employees who resign will have no rights of appeal under these rules.

3.104(2) Termination on expiration of appointment. On expiration of an appointment of limited duration the employing department will report such action in writing to the resident director.

3.104(3) Retirement. Employees who retire will be considered to have terminated in good standing and without prejudice and will have no rights of appeal under these rules.

3.104(4) Reduction in force. Nothing herein shall be construed as a guarantee of hours of work per day or per work period. An institution may lay off an employee when it deems necessary because of shortage of funds or work, a material change in duties or organization or abolishment of one or more positions. The individual whose position is eliminated or reduced in hours will be reassigned to a vacant position in the same classification provided the individual can perform the essential functions of the position and possesses any required special qualifications. If there is no vacant position to which the individual can be reassigned, the individual(s) may request and accept layoff with reemployment rights as provided in 3.104(4) "j." If an individual(s) directly affected does not request layoff with reemployment rights, the reduction in force procedures which follow shall be implemented. Reduction in force will be accomplished in a systematic manner in accordance with these rules; however, the layoff rules established in this subrule shall not apply to temporary layoffs of less than 20 workdays or 160 hours of work per calendar year:

- a. Reduction in force will be made by class.
- b. Reduction in force may be made by organizational unit within an institution or institutionwide, as designated by the institution, provided such designation is reported to the merit system director before the effective date of the reduction.
- c. The order of reduction in force will be by type of appointment as follows: temporary, trainee, initial probationary, permanent.
- d. Each permanent employee affected by a reduction in force will be notified in writing of the layoff and the reasons for it at least 20 working days prior to the effective date of the layoff unless budgetary limitations require a lesser period of notice.
- e. There will be competition among all employees in the class affected by the layoff based on a retention points system that will consist of points for length of service and performance evaluation of all employees in the class within the organizational unit or units affected. Retention points will be calculated as follows:
 - (1) Length of service credit will be allowed at the rate of one point for each month of service. For the purpose of computing length of service credits, the institution will include all continuous periods of employment between the date of the original appointment and the date of the layoff or as provided otherwise by law. Periods of leave without pay exceeding 30 days will not be counted.
 - (2) Performance evaluation credit will be allowed at the rate of one point for each month of satisfactory service. No credit will be allowed for service rated less than satisfactory. If there is no record of performance evaluation for a specific time period, it shall be presumed that the employee's performance is satisfactory.
 - (3) Reduction in force retention points will be the total of length of service and performance evaluation.
- f. Employees will be placed on the layoff list beginning with the employee with the greatest number of retention points at top. Layoffs will be made from the list in reverse order unless the employee with the least retention points has special skills and abilities. Copies of the computation of retention points will be made available to affected employees. One copy will be retained by the resident director and one copy will be forwarded to the merit system director at least ten days prior to the effective date of the layoff.

g. When two or more employees have the same total of retention points, the order of termination will be determined by giving preference for retention to the employee with the longest time in the class.

h. The reduction in force plan approved by the merit system director will be made available by the resident director so that all employees will have access to it.

i. An affected employee may appeal a reduction in force by filing, within five days after notification as provided in paragraph “d” of this subrule, a written grievance with the resident director (at Step 3 of the grievance procedure provided in 3.129(8A) or at a comparable step of a procedure approved under 3.129(1)). If not satisfied with the decision rendered at that step, the employees may pursue their appeal in accordance with the grievance procedure.

j. A permanent employee in a class in which layoffs are to be effected may, in lieu of layoff, elect voluntary demotion to a position in the next lower class in the same series utilized at the institution or, in the absence of a lower class in the same series, to a class which the employee has formerly occupied while in the continuous employment of the institution. The employee must possess any special qualifications required and have the ability to perform the essential functions of the position. Such demotion or the occupying of a formerly held class will not be permitted if the result thereof would be to cause the layoff of a permanent employee with a greater total of retention points. To exercise the right of voluntary demotion or to occupy a formerly held classification in lieu of layoff, the employee must notify the resident director in writing of such election not later than five calendar days after receiving notice of layoff. Any permanent employee displaced under these provisions will have the right of election as provided herein.

Employees who are laid off or who accept voluntary demotion in a series or assignment to a previously held class in lieu of layoff will, at their request, have their names placed on the reemployment eligibility list for the class from which they were laid off for a period of up to two years from the date of layoff.

Employees who are laid off will, at their request, have their names placed on the reemployment eligibility list for the class from which they were laid off and lower class(es) in the same series from which they were laid off and class(es) formerly occupied in accordance with 3.67(8A) to 3.70(8A) for a period of up to two years from the date of layoff. Acceptance of reemployment in a lower or previously held class will not affect the employee’s standing on the reemployment list for the class that the employee formerly occupied.

3.104(5) *Abandonment of position.* Employees who are absent from duty for three consecutive work days without proper notification and authorization thereof shall be deemed to have resigned their positions.

This rule is intended to implement Iowa Code Supplement section 8A.413(14).